

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

RULE AMENDMENTS PERTAINING TO) Administrative Cause
EXOTIC MAMMALS, WILD HOGS AND) Number 09-166D
GAME BREEDER AND EXOTIC)
CERVIDAE LICENSES) (LSA Document # 10-104(F))

**REPORT ON RULE PROCESSING, CONSIDERATION OF PUBLIC
COMMENTS, ANALYSIS AND RECOMMENDATION
REGARDING FINAL ADOPTION**

1. RULE PROCESSING

For consideration are proposed amendments to 312 IAC 9-3-18.5 and 312 IAC 9-10-4, the addition of a rule at 312 IAC 9-3-18.6 and the repeal of 312 IAC 9-10-21. The amendments to 312 IAC 9-3-18.5 will clarify requirements associated with the possession and sale of exotic mammals and authorize the taking of an exotic mammal that has escaped from captivity. The proposal will place all species of cervidae under the governance of 312 IAC 9-10-4. The addition of 312 IAC 9-3-18.6 addresses the possession and taking of wild hogs.

The Natural Resources Commission (NRC) considered the proposed rule amendments for preliminary adoption on January 12, 2010. The minutes of the January 12, 2010 meeting reflect concerns by individuals who possess exotic mammals regarding the proposed amendment to 312 IAC 9-3-18.5(b)(3) that would allow for an individual to shoot or otherwise take an escaped exotic mammal. With respect to this issue, Linnea Petercheff (*Petercheff*), Staff Specialist with the Division of Fish and Wildlife, explained,

... the rule proposal was initiated due to a recent incident involving the escape of six red deer from an exotic Cervidae farm in Northern Indiana, and “nobody did anything about it.” She said area landowners and hunters have inquired about the legality of taking the deer. “We have hunters all the time who find animals that have escaped, particularly from Cervidae facilities that have ear tags and are shot by hunters inadvertently.” The escaped animals may pose a “serious disease threat to Indiana’s native wild animal population.” She noted a cougar escaped from a USDA-licensed facility in 2007, and currently the rule only allows the resident landowner or tenant to take the animal on their property. A timeframe could be included in the proposed amendment, but DNR believes the rule is today “overly restrictive”.

Natural Resources Commission, Minutes of January 12, 2010 Meeting, pg. 13.
Following extensive discussion by the NRC, the rule amendment was granted preliminary

adoption as proposed but with direction to the Department and the hearing officer to engage in continued discussion with interested individuals in an effort to reach consensus. The NRC clarified that “if the parties do not agree on language, then the proposed amendments should remain as proposed by the Department...” *Id. at pg. 15.*

Between February 18, 2010 and March 5, 2010 three individuals submitted written requests that the proposed amendment to 312 IAC 9-3-18.5(b)(3) be revised to provide as follows:

... the language of Rule 312 IAC 9-3-18.5b(1) should be amended to include the following language: "an individual may take an exotic mammal only if the exotic mammal is....taken by a resident landowner or tenant where the exotic mammal is causing excessive damage to property only after the DNR has receipt of such information in writing, from the landowner, including the following information: the location of the property damage, the nature and extent of the damage and the particular species committing the damage and that after the DNR has conducted an investigation, and if the DNR has found that excessive damage does exist and can be abated only by removing or destroying the exotic mammal, a permit shall be issued by DNR to remove or destroy the exotic mammal responsible for causing the damage. ...

Comments from John R. Murrell and Shari E. Long received on February 18, 2010 and from Joseph Miller received on March 5, 2010 (full comments are found in Exhibit A of this Report).

Following a meeting between Department staff and the Indiana Deer and Elk Farmer’s Association (*IDEFA*), Petercheff reported to the hearing officer on February 8, 2010 that the parties had come “to agreement on revised language in 312 IAC 9-3-18.5(b)...” The language of 312 IAC 9-3-18.5(b) as presented to the NRC on January 12, 2010 as:

- (b) Notwithstanding subsection (a), ~~a person~~ **an individual** may take an exotic mammal only if the exotic mammal is:
 - (1) taken by a resident landowner or tenant while causing damage to property that is owned or leased by the landowner or tenant; or
 - (2) a species from the family:
 - ~~(A) suidae and:~~
 - ~~(i) has been released or escaped from captivity; or~~
 - ~~(ii) is a member of a breeding population in the wild; or~~
 - ~~(B) bovidae, camelidae, or cervidae and slaughtered in accordance with IC-45-2.4-24 17-5 or~~
 - (3) an animal that has escaped from captivity into the wild.**

was revised to:

- (b) Notwithstanding subsection (a), ~~a person~~ **an individual** may take an exotic mammal only if the exotic mammal is:
 - (1) taken by a resident landowner or tenant while **destroying or** causing **substantial** damage to property that is owned or leased by the landowner or tenant; ~~or~~
 - (2) a species from the family
 - ~~(A) suidae and:~~
 - ~~(i) has been released or escaped from captivity; or~~
 - ~~(ii) is a member of a breeding population in the wild; or~~

- ~~(B)~~ bovidae, camelidae, or cervidae and slaughtered in accordance with ~~IC 15-2-1-24~~ IC 15-17.5; or
- (3) an animal that has escaped from captivity into the wild and is a known immediate threat to:**
- (A) public safety; or**
 - (B) the health of wild animals as verified by the Indiana state board of animal health.**

The “Notice of Intent” to adopt the proposed rule amendment was posted to the INDIANA REGISTER database website as 20100217-IR-312100104NIA on February 17, 2010. The notice identified Linnea Petercheff, Department of Natural Resources, Division of Fish and Wildlife, as the “small business regulatory coordinator” for purposes of Indiana Code § 4-22-2-28.1.

As specified by Executive Order, proposed fiscal analyses of the rule proposal were submitted, along with a copy of the proposed rule language and a copy of the posted Notice of Intent, to the Office of Management and Budget on February 18, 2010. In a letter dated September 15, 2010, Christopher A. Ruhl, Director, Office of Management and Budget, recommended that the proposed rule amendments be approved.

The NRC Division of Hearings submitted the rule proposal to the Legislative Services Agency (*LSA*) along with the “Statement Concerning Rules Affecting Small Business” (also known as the “Economic Impact Statement”) on September 22, 2010. The Notice of Public Hearing was submitted to LSA on September 27, 2010. The Notice of Public Hearing, along with the Economic Impact Statement and the text of the proposed rule was posted to the INDIANA REGISTER database website on October 6, 2010 as 20101006-IR-312100104PHA. Following receipt of an “Authorization to Proceed” from LSA on September 27, 2010, the NRC Division of Hearings also caused a Notice of Public Hearing to be published by the Indianapolis Newspapers, a newspaper of general circulation in Marion County Indiana, on October 1, 2010. In addition, the notice of the public hearing and a summary of the proposed rule changes were published on the Commission’s web-based electronic calendar.

In accordance with IC 4-22-2.1-5(c)(2), the proposed rule amendments and a completed Economic Impact Statement were sent by email to Ryan Asberry, Director of Research, Indiana Economic Development Corporation (*IEDC*). The email also indicated the date and location of the scheduled public hearing on the rule proposal and indicated contact information for the Small Business Regulatory Coordinator.

On October 15, 2010, the IEDC emailed, and mailed a hard copy, of comments concerning the proposed rule, which stated that “...IEDC does not object to the economic impact to small businesses associated with the proposed rule.” On the same day the

hearing officer responded to the IEDC and caused the IEDC comments to be posted to the NRC's website at www.in.gov/nrc/2348.htm.

2. REPORT OF PUBLIC HEARING AND COMMENTS

a) Public Hearing Comments

The public hearing was conducted as scheduled on October 28, 2010 at 2:00 p.m. at the Indiana Government Center South, 402 West Washington Street, Conference Center Room 4, Indianapolis, Indiana. Stephen L. Lucas was present to conduct the public hearing on behalf of the undersigned hearing officer. Linnea Petercheff also attended. No member of the public appeared for the public hearing.

b) Comments Received Outside Public Hearing

Written public comments were received from approximately January 12, 2010 until October 28, 2010. These comments have been attached to this report as Exhibit A.

c) Response by the Department of Natural Resources

The Department of Natural Resources responded to the public comments on November 1, 2010. A copy of the Department's response is attached as Exhibit B.

3. ANALYSIS AND RECOMMENDATION

a) Exotic Mammals; 312 IAC 9-3-18.5

The proposed amendments to 312 IAC 9-3-18.5, includes an amendment at subsection (b) that provides for the taking of an exotic mammal by a property owner or tenant if the animal is "destroying or causing substantial damage to property..." or "has escaped from captivity into the wild" and presents a known and immediate threat to either the public safety or the health of wild animals. As explained above, the proposed amendment to 312 IAC 9-3-18.5(b), as published in the Indiana Register by the Legislative Services Agency on October 6, 2010, was developed by agreement between IDEFA and the Department in compliance with the NRC's directive.

As the Department explained to the NRC on January 12, 2010, the existing language of 312 IAC 9-3-18.5(b) prevents anyone except a landowner or tenant from taking an escaped exotic mammal. In its Response, the Department elaborates that "the DNR needs additional options for individuals to take exotic animals if they pose a safety threat... or if the animals have escaped and have not been recaptured." The

Department's Response acknowledges that IC 35-46-3-12 establishes a criminal offense for "knowingly or intentionally [killing] a domestic animal without the consent of the owner of the domestic animal..." but notes that it is a defense to such criminal offense that the animal was killed to "prevent injury... ; protect property...from destruction or substantial damage ..." *IC 35-46-3-12(e)*. The proposed rule language is consistent with IC 35-46-3-12.

The proposed amendments to 312 IAC 9-3-18.5 will also provide clarification regarding the possession and sale of exotic mammals and will additionally remove the family suidae, which includes wild boars and other exotic swine, from governance under this rule. Under this proposal as a whole, mammals within the suidae family will be controlled under 312 IAC 9-3-18.6, a proposed new rule.

b) Wild Hogs; 312 IAC 9-3-18.6

The proposed addition of 312 IAC 9-3-18.6 will define wild hogs and will prohibit a person from importing, possessing, selling, transporting or offering for sale, bartering, trading, leasing or releasing a wild hog. The proposed rule will also prohibit a person from offering wild hog hunting or taking privileges for compensation. Certain exemptions are also provided for organizations, entities operating under recognized licenses or individuals who are transporting a wild hog through Indiana provided they meet certain requirements.

The new rule will allow a resident landowner or other individual, with the landowner's written permission, to take wild hogs on that land at any time. Under this proposal, wild hogs may also be taken by a person with a nuisance wild animal control permit or a scientific purposes license.

The Department reports that the new rule being proposed "will help to eliminate these animals in Indiana and prevent additional wild hogs from being imported and released into Indiana." *Exhibit B*. In its Response, the Department notes that wild hogs can carry pseudo-rabies, a significant threat to domestic hog operations, and brucellosis, a threat to other types of livestock. These animals are not native to Indiana and are highly destructive to habitat for native species.

As originally published the proposed rule would require wild hogs that are taken to be euthanized within 24 hours. However, several concerns were raised by the written comments that the Department elaborates upon in its Response in requesting a revision to the published rule language.

- 1) Feral hogs can weigh several hundred pounds. If they are required to be killed at the trap sight, it would unnecessarily expose the area to disease through blood and other

body fluid loss. This could be objectionable to property owners who might otherwise permit hogs to be trapped on the property. It could possibly be jeopardizing the health of commercial hog operations.

- 2) It is possible that the hogs would be trapped in warm weather that would make utilizing the meat impractical without field dressing and extraordinary means to cool the meat to safe temperatures. If the hogs are not utilized for consumption, their disposal would require extraordinary means to insure diseases are not spread through carcass decomposition. This disposal could require machinery or equipment unavailable to the trapper. Disposal of internal organs resulting from field dressing would require the same measures. By allowing the transport of hogs they can be taken to human slaughter facilities that can properly inspect, process, and preserve the animal for safe human consumption.
- 3) Additionally requiring hogs to be killed at the trap could foul the trap area making additional captures more difficult.
- 4) It may not be legal to discharge a firearm in the location where the wild hog was trapped. Additionally, due to the location of nearby residences, it may not be safe to discharge a firearm in the location where the hog was trapped.

However, as a result of the written comments, the DNR is requesting to modify the language in 312 IAC 9-3-18.6 to help minimize opportunities for transporting and releasing these hogs as follows:

(b) A person must not import a live wild hog into the State of Indiana, or possess a live wild hog except as provided in subsection (e).

(e) A live wild hog taken under this subsection:

(1) shall be euthanized immediately at the site or transported from the site only to another site where it is euthanized immediately; and

(2) shall not be:

(A) possessed except as authorized in subdivision (e)(1); or

(B) sold;

(C) traded;

(D) bartered;

(E) gifted; or

(F) released.

c) Game Breeder and Exotic Cervidae Licenses; 312 IAC 9-10-4

The proposed amendments to 312 IAC 9-10-4 will add exotic cervidae to the Game Breeder License in compliance with statutory amendments governing Cervidae Livestock Operations. *IC 14-22-20.5*. These proposed amendments have not been the subject of negative public input.

d) Repeal of Cervidae Possession Permit; 312 IAC 9-10-21

The amendments to the Game Breeder and Exotic Cervidae Licenses at 312 IAC 9-10-4 have incorporated the substantive content of 312 IAC 9-10-21. As a result, it is proposed that 312 IAC 9-10-21 be repealed.

e) Recommendation

The hearing officer recommends that the proposed rule amendments to 312 IAC 9-3-18.5 and 312 IAC 9-10-4 and the repeal of 312 IAC 9-10-21 be granted final adoption without revision. The hearing officer further recommends that the proposed added rule, 312 IAC 9-3-18.6, be granted final adoption with the revisions as requested by the Department.

The rule language as proposed for final adoption, which includes the proposed revisions to 312 IAC 9-3-18.6, is attached as Exhibit C.

Dated: November 3, 2010

Sandra L. Jensen
Hearing Officer

“Exhibit A”

Comments Received Outside the Public Hearing

John Murrell, President, Indian Deer & Elk Farmers Assoc. (IDEFA), Dunkirk, IN

On behalf of myself and the 261 past and present members of the Indiana Deer & Elk Farmers Assoc., we feel that the proposed language: Rule 312 IAC 9-3-18.5 b(1) is a natural and logical outgrowth of the preliminary approval the NRC has already given for Rule 312 IAC 9-3-18.5 b(3) in that both sections deal with damage, ie, damage to property, damage to public safety and damage to the health of wild animals. As such, I believe the language of Rule 312 IAC 9-3-18.5b(1) should be amended to include the following language: "an individual may take an exotic mammal only if the exotic mammal is....taken by a resident landowner or tenant where the exotic mammal is causing excessive damage to property only after the DNR has receipt of such information in writing, from the landowner, including the following information: the location of the property damage, the nature and extent of the damage and the particular species committing the damage and that after the DNR has conducted an investigation, and if the DNR has found that excessive damage does exist and can be abated only by removing or destroying the exotic mammal, a permit shall be issued by DNR to remove or destroy the exotic mammal responsible for causing the damage. The permit shall expire after 90 days and shall specify the means and methods by which the exotic mammal may be removed or destroyed and set forth the disposition procedure to made with the exotic mammal and all other restrictions the DNR considers necessary and appropriate in the circumstances.

Shari E. Long, IDEFA, Bartholomew, IN

Rule 312 IAC 9-3-18.5 b(1) is a natural and logical outgrowth of the preliminary approval the NRC has already given for Rule 312 IAC 9-3-18.5 b(3) in that both sections deal with damage, ie, damage to property, damage to public safety and damage to the health of wild animals. As such, I believe the language of Rule 312 IAC 9-3-18.5b(1) should be amended to include the following language: "an individual may take an exotic mammal only if the exotic mammal is....taken by a resident landowner or tenant where the exotic mammal is causing excessive damage to property only after the DNR has receipt of such information in writing, from the landowner, including the following information: the location of the property damage, the nature and extent of the damage and the particular species committing the damage and that after the DNR has conducted an investigation, and if the DNR has found that excessive damage does exist and can be abated only by removing or destroying the exotic mammal, a permit shall be issued by DNR to remove or destroy the exotic mammal responsible for causing the damage. The permit shall expire after 90 days and shall specify the means and methods by which the exotic mammal may be removed or destroyed and set forth the disposition procedure to made with the exotic mammal and all other restrictions the DNR considers necessary and appropriate in the circumstances.

Nathan Morrett, Eddie ray Borkholder, Mark Borkholder, Verle Miller, David Borkholder; IDEFA; St Joseph, Marshall, IN

We all agree to this amendment.

Robert Donathan Morris, IDEFA Board Member, Converse, IN

I like the new language with BOAH involvement in the decision making process. Any action involving animal health should be BOAH, not law enforcement DNR. The gauge of wire fence do not make since to me. You want to allow 14 gauge high tensile, but think chain link needs to be 9guage. There is a lot more wire per square inch to restrain a animal with chain link. Why would chain link need to be that much heavier?

Joseph Miller, IDEFA Board Member, Milford, IN

I support this language: Rule 312 IAC 9-3-18.5 b(1) is a natural and logical outgrowth of the preliminary approval the NRC has already given Rule 312 IAC 9-3-18.5 b(3) in that both sections deal with damages, ie, damage to property damage to public safety and damage to the health of wild animals. As such, I believe the language of Rule 312 IAC 9-3-18.5 b(1) should be amended to include the following language: “an individual may take an exotic mammal only if the exotic mammal is...taken by resident landowner or tenant where the exotic mammal is causing excessive damage to property only after the DNR has receipt of such information in writing, from the landowner, including the following information; the location of the property damage, the nature and extent of the damage and the particular species committing the damage and that after the DNR has conducted an investigation, and if the DNR has found that excessive damage does exist and can be abated only by removing or destroying the exotic mammal, a permit shall be issued by the DNR to remove or destroy the exotic mammal responsible for causing the damage. The permit shall expire in 90 days and shall specify the means and methods by which the exotic mammal may be removed or destroyed and set forth the disposition procedure to made with the exotic mammal and all other restrictions the DNR considers necessary and appropriate in the circumstances.

Daniel J. Shaver, Bartholomew, IN

The new rules regarding feral hogs is a step in the right direction. These rules should be approved. If anything, rules should be set in place to require the eradication of feral hogs from Indiana. Every state that has allowed feral hogs to reproduce and proliferate is having problems with damage to forest habitat and health, threats to threatened and endangered species and the spread of non-native invasive plants. Indiana should strive to eradicate feral hogs from Indiana. As a professional forester, hogs are a threat to the wonderful and valuable forests of Indiana.

Washington County Board of Commissioners, Salem, IN

The Washington County board of Commissioners support the efforts of the Indiana Department of Natural Resources on a new rule governing wild hogs to deal with the possession and taking of wild (feral) hogs in Indiana. The Washington County Board of Commissioners support the preventing of the sale and possession, and prohibit high-fence hunting operations for these animals.

David E. Lee, Salem, IN

As a farmer I am getting major damage from wild hogs. There is a need to eradicate them immediately. Please accept any rule changes which would expedite this process.

Allen Pursell, The Nature Conservancy, Laconia, IN



The Nature Conservancy in Indiana
Blue River Project Office
5885 Wulfsman Road SE
Laconia, IN 47135

tel & fax [812] 737-2087
nature.org/indiana

May 25, 2010

Natural Resources Commission
Indiana Government Center North
100 North Senate Avenue, Room N501
Indianapolis, Indiana 46204

Re: 312 IAC 9-3-18.6 Wild Hogs

To the Members of the Commission;

Feral hogs have been recognized as one of the most destructive of all non-native animals, not only in the United States but in many other parts of the world. Their destructive capacity to damage wildlife, agricultural crops, and native plant communities is well documented. They are also without any doubt a reservoir of swine disease and other livestock illnesses. Their historical presence in Indiana is relatively short, having been transported here from other parts of the country and released. While their populations are currently rather small, they are by no means restricted and are becoming more widespread across the state. We are pleased the Commission has preliminarily adopted rule changes that will enhance the capacity of the Department of Natural Resources to control feral hogs. To more effectively do so we suggest one change to the proposed rule.

We are concerned with a provision of the proposed rule change: Sec. 18.6 (e) states (1) "A live wild hog taken . . . shall be euthanized within twenty-four (24) hours of capture; and (2) shall not be: (A) possessed for more than twenty-four (24) hours; . . ." We understand from communication with Division of Fish and Wildlife staff this rule as written is consistent with language governing the taking of coyotes outside of season as it allows for circumstances wherein a hog is trapped in an area that may prohibit a weapons discharge, or a landowner may not want the hog killed on their property. However, we believe the 24-hour possession time may be used as a loophole for those who are illegally transporting feral hogs.

To discourage misuse of the 24-hour provision and prevent individuals from thwarting the intent of the rule change, we suggest transportation of a live feral hog legally taken in Indiana should be allowed only upon prior notification to DNR law enforcement. Our recommendation to modify this section of the rule is based on two lines of argument. First, unlike coyotes it should be the aim of the regulations to eradicate feral hogs from the state, not simply control. Therefore the regulations should be more stringent. Second, there will in all likelihood be few situations where hogs are taken in areas that prohibit discharge, or the need for live transportation otherwise exists.

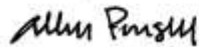
As professionals who work almost daily to mend the damage caused by exotic animals and plants it is clear the impact to Indiana's natural resources is considerable. Strengthening the rules regarding feral hogs will receive our full support, but we hope you will consider our suggestion favorably.

We would also like to suggest that official communication with the newly established Invasive Species Council might be appropriate at this time. I have enclosed a copy of the statute creating the

Council for your perusal. As you can see, it lists the duties of the Council. The first duty specifies that the Council will recommend... "rules and laws concerning invasive species to appropriate governmental agencies and legislative committees." The Natural Resources Commission could begin the active exchange of ideas and expertise among state agencies and private stakeholders to bring Indiana to the forefront in addressing the threats from invasive species.

Thank you very much for allowing us to comment on the exotic mammal rule change proposals.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen Pursell".

Allen Pursell
Southern Indiana Program Director

Encl.

First Regular Session 116th General Assembly (2009)

PRINTING CODE: Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1203

AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 15-16-10 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 10. Invasive Species Council

Sec. 1. As used in this chapter, "council" refers to the invasive species council established by section 3 of this chapter.

Sec. 2. As used in this chapter, "fund" refers to the invasive species council fund established by section 12 of this chapter.

Sec. 3. The invasive species council is established within the Purdue University School of Agriculture.

Sec. 4. (a) The council has the following duties:

(1) Recommend:

(A) priorities for projects;

(B) funding; and

(C) rules and laws;

concerning invasive species to the appropriate governmental agencies and legislative committees.

(2) Recommend a lead state agency to:

(A) develop an invasive species inventory for each invasive species taxon; and

(B) develop and maintain a data management system for invasive species in Indiana.

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(3) Communicate with other states, federal agencies, and state and regional organizations to enhance consistency and effectiveness in:

- (A) preventing the spread of;
- (B) early detection of;
- (C) response to; and
- (D) management of;

invasive species.

(4) Coordinate invasive species education and outreach programs.

(5) Convene or support an invasive species meeting at least once per biennium to provide information on best practices and pertinent research findings.

(6) Assist governmental agencies in:

- (A) reviewing current invasive species policies and procedures; and
- (B) addressing any deficiencies or inconsistencies concerning invasive species policies and procedures.

(7) Assist state agencies in reviewing the agencies' performance measures for accountability concerning the agencies' invasive species actions.

(8) Receive reports from any governmental agency regarding actions taken on recommendations of the council.

(9) Apply for grants.

(10) Provide grants for education concerning or management of invasive species.

(b) The council does not have any regulatory authority over invasive species or the authority to hear appeals of grievances.

(c) The council may create advisory committees to provide information and recommendations to the council.

(d) Beginning July 1, 2011, the council shall issue a written report to the natural resources study committee (IC 2-5-5-1) in every odd-numbered year. The report must include a summary of:

- (1) the council's activities;
- (2) the performance of the council's duties; and
- (3) efforts in the state to identify and manage invasive species.

The report may include recommendations of the council.

Sec. 5. (a) The council consists of the following eleven (11) members:

- (1) The dean of the Purdue University College of Agriculture or the dean's designee, who shall act as secretary of the council.

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- (2) The director of the Indiana state department of agriculture or the director's designee.
 - (3) The commissioner of the Indiana department of transportation or the commissioner's designee.
 - (4) The state veterinarian or the state veterinarian's designee.
 - (5) An employee of the division of fish and wildlife who is designated by the director of the division of fish and wildlife to serve as the aquatic invasive species coordinator.
 - (6) An employee of the division of entomology and plant pathology who is designated by the director of the division of entomology and plant pathology to serve as the terrestrial invasive species coordinator.
 - (7) One (1) individual representing research on invasive species.
 - (8) Two (2) individuals who represent organizations that are primarily concerned with any of the following:
 - (A) The hardwood tree industry.
 - (B) The horticulture industry.
 - (C) The agriculture industry.
 - (D) The aquaculture industry.
 - (9) Two (2) individuals who represent organizations or local governmental agencies primarily concerned with any of the following:
 - (A) Land trusts.
 - (B) Biodiversity conservation.
 - (C) Aquatic conservation.
 - (D) Local parks and recreation.
 - (b) The governor shall appoint the members under subsection (a)(7) through (a)(9).
 - (c) The council shall annually elect a member to serve as chairperson of the council.
- Sec. 6. (a) The term of a member of the council appointed under this chapter is three (3) years.
- (b) The term of each member of the council continues until a successor has been appointed.
 - (c) The appointing authority who appointed a member of the council may remove the member for cause.
- Sec. 7. (a) If there is a vacancy on the council, the appointing authority who appointed the member whose position is vacant shall appoint an individual to fill the vacancy. The appointing authority shall appoint a member not later than sixty (60) days after the vacancy occurs.

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(b) The member appointed under this section shall fill the vacancy for the remainder of the unexpired term.

Sec. 8. Members of the council shall serve without compensation. Subject to the availability of money in the fund, members who are not state or county employees are entitled to reimbursement for traveling expenses as provided in the Purdue University travel policies and procedures established by the Purdue University department of transportation and approved by the Purdue University vice president of business services.

Sec. 9. Six (6) members of the council constitute a quorum.

Sec. 10. (a) The council shall hold at least one (1) regular meeting each year at a date, place, and time to be set by the chairperson.

(b) The chairperson may call special meetings of the council.

Sec. 11. The Purdue University School of Agriculture shall provide administrative assistance to the council.

Sec. 12. (a) The invasive species council fund is established as a separate fund in the Purdue University treasury to carry out the purposes of this chapter. The fund shall be administered by the council.

(b) The fund consists of any of the following:

- (1) Grants.
- (2) Appropriations.
- (3) Gifts and donations.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The Purdue University treasurer shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments must be deposited in the fund.

(e) Money in the fund may be used for purposes set forth in this chapter and to meet the expenses of administering this chapter.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 13. This chapter expires July 1, 2015.

SECTION 2. [EFFECTIVE JULY 1, 2009] (a) The initial terms of office of the appointed members of the invasive species council established by IC 15-16-10-5, as added by this act, are as follows:

- (1) One (1) member appointed under IC 15-16-10-5(a)(7) and one (1) member appointed under IC 15-16-10-5(a)(8), three (3) years.
- (2) One (1) member appointed under IC 15-16-10-5(a)(8) and one (1) member appointed under IC 15-16-10-5(a)(9), two (2)

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years.

(3) One (1) member appointed under IC 15-16-10-5(a)(9), one (1) year.

The governor shall specify the term of each member described in subdivisions (1), (2), and (3) when making the initial appointments.

(b) The initial terms of the appointed members begin July 1, 2009.

(c) The first meeting of the council must convene not later than October 1, 2009.

(d) This SECTION expires July 1, 2012.

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“Exhibit B”

Department of Natural Resources Response

Exotic Mammal Rule (312 IAC 9-3-18.5)

The change in 312 IAC 9-3-18.5 (b) is needed because the DNR needs additional options for individuals to take exotic animals if they pose a safety threat to the public, such as a tiger or cougar, or if the animals have escaped and have not been recaptured. The cougar that escaped from a USDA-licensed facility in 2007 posed a safety threat to the public and the multiple red deer that escaped last year were causing property damage.

State Law in IC 35-46-3-5, governing the killing of a domestic animal, has exemptions that include,

“ (10) Destruction of a vertebrate animal that is:

(A) endangering, harassing, or threatening livestock or a domestic animal;

or

(B) destroying or damaging a person's property.”

State law in IC 35-46-3-12 also states, “(e) It is a defense to a prosecution under this section that the accused person:

(1) reasonably believes the conduct was necessary to:

(A) prevent injury to the accused person or another person;

(B) protect the property of the accused person from destruction or substantial damage; or

(C) prevent a seriously injured vertebrate animal from prolonged suffering;”

Wild Hog Rule (312 IAC 9-3-18.6)

The new rule governing wild hogs will help eliminate these animals in Indiana and prevent additional wild hogs from being imported and released into Indiana. Wild hogs can carry pseudo-rabies, a significant threat to domestic hog operations, as well as brucellosis (which can be transmitted to other livestock), and tuberculosis, a human health threat. By prohibiting their importation and possession, no additional wild hogs could legally be transported into Indiana, thereby helping to protect farmers who own domestic swine. Wild hogs will be able to be taken from the wild at any time of year on the person’s own land, with written permission from the landowner, or with a nuisance animal control permit or scientific purposes license.

In response to comments about allowing a wild hog that has been trapped to be killed within 24 hours of capture and not killed immediately, the DNR has several concerns:

- 5) Feral hogs can weigh several hundred pounds. If they are required to be killed at the trap sight, it would unnecessarily expose the area to disease through blood and other body fluid loss. This could be objectionable to property owners who might otherwise permit hogs to be trapped on the property. It could possibly be jeopardizing the health of commercial hog operations.
- 6) It is possible that the hogs would be trapped in warm weather that would make utilizing the meat impractical without field dressing and extraordinary means to

cool the meat to safe temperatures. If the hogs are not utilized for consumption, their disposal would require extraordinary means to insure diseases are not spread through carcass decomposition. This disposal could require machinery or equipment unavailable to the trapper. Disposal of internal organs resulting from field dressing would require the same measures. By allowing the transport of hogs they can be taken to human slaughter facilities that can properly inspect, process, and preserve the animal for safe human consumption.

- 7) Additionally requiring hogs to be killed at the trap could foul the trap area making additional captures more difficult.
- 8) It may not be legal to discharge a firearm in the location where the wild hog was trapped. Additionally, due to the location of nearby residences, it may not be safe to discharge a firearm in the location where the hog was trapped.

However, as a result of the written comments, the DNR is requesting to modify the language in 312 IAC 9-3-18.6 to help minimize opportunities for transporting and releasing these hogs as follows:

(b) A person must not import a live wild hog into the State of Indiana, or possess a live wild hog except as provided in subsection (e).

(e) A live wild hog taken under this subsection:

(1) shall be euthanized immediately at the site or transported from the site only to another site where it is euthanized immediately; and

(2) shall not be:

(A) possessed except as authorized in subdivision (e)(1); or

(B) sold;

(C) traded;

(D) bartered;

(E) gifted; or

(F) released.

Regarding the comments about the invasive species council, this council, by law, “does not have any regulatory authority over invasive species..” under IC 15-16-10-4. Staff from the DNR met with representatives from the Indiana State Board of Animal Health, USDA – Veterinary Services, and USDA – Wildlife Services to discuss the issues related to wild hogs. All agencies believe that it is imperative that this rule move forward now before wild hog populations expand even further or spread a disease to domestic hog operations. The DNR is continuing to get reports of wild hogs in various counties throughout the State. Additionally, the DNR has received phone calls about importing wild hogs and establishing hunting preserves for these wild hogs, including Eurasian boar. The Midwest Association of Fish and Wildlife Agencies and United States Animal Health Association have passed resolutions calling for feral hog control. There is also an increasing amount of information about the damage wild hogs can cause to properties, including crops and golf courses, as well as damage to native wild animals, including depredation on ground-nesting species.

The DNR has the authority in IC 14-22-2-6 to establish the means, methods, and time of taking, chasing, transporting, and selling wild and exotic mammals and believes that this rule is needed to help eliminate wild hogs from the State.

“Exhibit C”

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule

LSA Document #10-104(F)

DIGEST

Amends 312 IAC 9-3-18.5 by authorizing the taking of exotic mammals that have escaped from captivity and clarifying their possession and sale. Adds 312 IAC 9-3-18.6 governing the possession and taking of wild hogs. Amends 312 IAC 9-10-4 governing game breeder licenses to add all species of cervidae. Repeals 312 IAC 9-10-21. Effective 30 days after filing with the Publisher.

SECTION 1. 312 IAC 9-3-18.5 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-18.5 Exotic mammals

Authority: IC 14-22-2-6; IC 14-22-32-6

Affected: IC 14-8-2-278; IC 14-22-20; IC 14-22-20.5; IC 15-17.5

Sec. 18.5. (a) ~~A person~~ **An individual** must not take, as defined by IC 14-8-2-278, an exotic mammal that is a species from any of the following families of mammals:

- (1) Bradypodidae (tree sloth).
- (2) Bovidae (gazelle, bighorn sheep, antelope, and wildebeest), except for domestic cattle (genus Bos, including all dairy and beef animals) and buffalo (Bison bison).
- (3) Camelidae (camel and llama).
- (4) Canidae (jackal, wild dog, and other exotic foxes).
- (5) Cebidae (marmoset).
- (6) Cercopithecidae (baboon and monkey).
- (7) Cervidae (elk, moose, caribou, and other exotic deer).
- (8) Dasypodidae (armadillo).
- (9) Elephantidae (elephant).
- (10) Equidae (wild horse and zebra), except for domestic horses.
- (11) Felidae (mountain lion, lynx, tiger, and other exotic cats).
- (12) Giraffidae (giraffe and okapi).
- (13) Hippopotamidae (hippopotamus).
- (14) Hyaenidae (hyaena).
- (15) Macropodidae (kangaroo and wallaby).
- (16) Myrmecophagidae (anteater).
- (17) Orycteropodidae (aardvark).
- (18) Pongidae (chimpanzee, bonobo, and gorilla).
- (19) Procaviidae (hyrax).
- (20) Protelidae (aardwolf).
- (21) Rhinocerotidae (rhinoceros).
- ~~(22) Suidae (wild boar and other exotic swine), except for domestic swine.~~
- ~~(23)~~ **(22)** Tapiridae (tapir).

~~(24) Tayassuidae (javelina and peccary).~~

~~(25)~~ **(23) Tragulidae (chevrotain).**

~~(26)~~ **(24) Ursidae (bear).**

~~(27)~~ **(25) A hybrid or genetically altered mammal of any of these families.**

Exempted from this section are the following species of mammals that are not considered to be exotic mammals: white-tailed deer, bobcat, red fox, gray fox, and coyote.

(b) Notwithstanding subsection (a), ~~a person~~ **an individual** may take an exotic mammal only if the exotic mammal is:

(1) taken by a resident landowner or tenant while **destroying or** causing **substantial** damage to property that is owned or leased by the landowner or tenant; ~~or~~

(2) a species from the family

~~(A) suidae and:~~

~~(i) has been released or escaped from captivity; or~~

~~(ii) is a member of a breeding population in the wild; or~~

~~(B) bovidae, camelidae, or cervidae and slaughtered in accordance with IC 15-2-1-24; IC 15-17.5; or~~

(3) an animal that has escaped from captivity into the wild and is a known immediate threat to:

(A) public safety; or

(B) the health of wild animals as verified by the Indiana state board of animal health.

(c) A person may ~~not~~ possess an exotic mammal that is a species from a family listed in subsection (a) ~~except as otherwise provided by statute or this article.~~ **only as follows:**

(1) Wild cats, except feral cats, in the family Felidae, purebred wolves in the family Canidae, and bears in the family Ursidae may be possessed under a wild animal possession permit issued under 312 IAC 9-11 or a license issued by the United States Department of Agriculture under 9 CFR, Chapter 1, Subchapter A, Parts I through IV.

(2) Cervidae may be possessed under a cervidae breeder license issued under 312 IAC 9-10-4.

(3) All other families listed in subsection (a) may be possessed without a permit from the department but must be possessed with a license issued by the United States Department of Agriculture under 9 CFR, Chapter 1, Subchapter A, Parts I through IV.

(d) A person may sell an exotic mammal from a family listed in subsection (a) only as follows:

(1) Cervidae, including their parts, may be sold under IC 14-22-22-20, IC 14-22-20.5, and 345 IAC.

(2) Bovidae may be sold without a license from the department.

(3) All other families listed in subsection (a) may be sold without a permit from the department but must be sold with a license issued by the United States Department of Agriculture under 9 CFR, Chapter 1, Subchapter A, Parts I through IV.

~~(d)~~ **(e) A person:**

(1) may not release an exotic mammal that is a species from a family listed in subsection (a) into the wild in Indiana; ~~except as otherwise provided by statute or this article;~~ and

(2) must report the escape of any exotic mammal listed in subsection (a) to a conservation officer within twenty-four (24) hours.

~~(e) As used in this rule, "exotic mammal" means a species that is:~~

~~(1) not native to Indiana; or~~

~~(2) extirpated from Indiana and either a:~~

~~(A) wild animal; or~~

~~(B) feral animal other than a dog or cat.~~

(Natural Resources Commission; 312 IAC 9-3-18.5; filed May 12, 2006, 10:38 a.m.: 29 IR 3346; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)

SECTION 2. 312 IAC 9-3-18.6 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-3-18.6 Wild hogs

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 18.6. (a) As used in this section, "wild hog" means any feral, untamed, or undomesticated hog from the family Suidae or family Tayassuidae that has one (1) or more of the following characteristics:

- (1) Has acclimated to living in a wild or free-roaming environment.**
- (2) Was born in the wild.**
- (3) Is free-roaming without any visible tags, markings, or behavioral characteristics that would indicate a domestic state or private ownership.**
- (4) Has skeletal characteristics indicative of a wild or Eurasian origin including:**
 - (A) skull characteristics of an elongated snout or sloping appearance with little or no stop at the eye line;**
 - (B) a shoulder structure with a steep or razorback (predominate ridge along the back) appearance;**
 - (C) hindquarters proportionally smaller than the forequarters lacking natural muscling found in commercial species; or**
 - (D) visible tusks.**

(b) A person must not import into or possess a live wild hog in the state of Indiana except as provided in subsection (e).

(c) A person must not:

- (1) sell;**
- (2) transport for sale;**
- (3) offer to sell;**
- (4) barter;**
- (5) trade;**
- (6) lease;**
- (7) release a live wild hog; or**
- (8) offer for compensation any kind of wild hog hunting or taking privileges.**

(d) Notwithstanding subsection (c), an individual may take a wild hog only as follows:

- (1) A resident landowner or other individual who has written permission from the landowner may take a wild hog on that land at any time without a permit.**
- (2) With a nuisance wild animal control permit issued under 312 IAC 9-10-11.**
- (3) With a scientific purposes license issued under 312 IAC 9-10-6.**

(e) A live wild hog taken under this subsection shall:

- (1) be euthanized immediately at the site or transported from the site only to another site where it is euthanized immediately; and**
- (2) not be:**
 - (A) possessed except as authorized in subdivision (e)(1);**
 - (B) sold;**
 - (C) traded;**
 - (D) bartered;**
 - (E) gifted; or**
 - (F) released.**

(f) The following are exempted from this section:

- (1) A zoo that is a permanent establishment accredited by the American Zoological Association or the Zoological Association of America.**
- (2) A scientific research institution licensed or registered with the United States Department of Agriculture and Indiana secretary of state.**
- (3) The Purdue University Animal Disease Diagnostic Laboratory.**
- (4) An organization or a person housing a wild hog at the written request of the department.**
- (5) An individual who transports a wild hog through Indiana if the:**
 - (A) individual transporting the wild hog in the state does not stop and unload the wild hog in Indiana unless taken directly to slaughter at an official state or federally inspected slaughter establishment for immediate slaughter; and**
 - (B) wild hog is continuously confined in a container that is of sufficient strength to prevent the hog from escaping or coming into contact with the public.**

(Natural Resources Commission; 312 IAC 9-3-18.6)

SECTION 3. 312 IAC 9-10-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-10-4 Game breeder and exotic cervidae licenses

Authority: IC 14-10-2-4; IC 14-22-2-6; IC 14-22-20

Affected: IC 4-21.5; IC 14-22-20.5-2

Sec. 4. (a) A person shall apply for a license as a game breeder on a departmental form.

(b) A license holder under this section may possess one (1) or more of the following:

- (1) Ring-necked pheasant (*Phasianus colchicus*).
- (2) Bobwhite quail (*Colinus virginianus*).
- ~~(3) White-tailed deer (*Odocoileus virginianus*).~~
- ~~(4)~~ (3) Eastern cottontail rabbit (*Sylvilagus floridanus*).
- ~~(5)~~ (4) Gray squirrel (*Sciurus carolinensis*).
- ~~(6)~~ (5) Fox squirrel (*Sciurus niger*).
- ~~(7)~~ (6) Beaver (*Castor canadensis*).
- ~~(8)~~ (7) Coyote (*Canis latrans*).
- ~~(9)~~ (8) Gray fox (*Urocyon cinereoargenteus*).
- ~~(10)~~ (9) Red fox (*Vulpes vulpes*).
- ~~(11)~~ (10) Mink (*Mustela vison*).
- ~~(12)~~ (11) Muskrat (*Ondatra zibethicus*).
- ~~(13)~~ (12) Opossum (*Didelphis marsupialis*).
- ~~(14)~~ (13) Raccoon (*Procyon lotor*).

- ~~(15)~~ **(14)** Striped skunk (*Mephitis mephitis*).
- ~~(16)~~ **(15)** Long-tailed weasel (*Mustela frenata*).
- ~~(17)~~ **(16)** Least weasel (*Mustela nivalis* or *Mustela rixosa*).

(c) Notwithstanding ~~subsection~~ **subsections (a) and (b)**, a ~~license holder under this section~~ **may person shall apply for a cervidae breeder license authorized at IC 14-22-20.5 on a departmental form to** lawfully acquire and possess ~~a white-tailed cervidae, including deer (all species), elk (*Cervus canadensis*), caribou (all species), moose (*Alces alces*), or a first generation hybrid or genetically altered mammal of the cervidae family~~ **that is:**

- (1) privately-owned;
- (2) legally obtained;
- (3) born in captivity; and
- (4) possessed by a cervidae livestock operation in accordance with IC 14-22-20.5-2.

(d) A license holder under ~~this section~~ **subsection (a)** may lawfully acquire and possess the following:

- (1) Furbearing mammals and eastern cottontail rabbits that must have been one (1) of the following:
 - (A) Lawfully taken in season.
 - (B) Born in captivity.
- (2) Fox squirrels and gray squirrels ~~that~~ must have been born in captivity.
- (3) Ring-necked pheasants and bobwhite quail ~~that~~ must have been hatched in captivity.

(e) A license holder under ~~this section~~ **subsection (a)** may possess the following:

~~(1) White-tailed deer and their products for:~~

- ~~(A) breeding;~~
- ~~(B) propagating;~~
- ~~(C) purchasing;~~
- ~~(D) marketing; and~~
- ~~(E) selling;~~

~~under IC 14-22-20.5.~~

~~(2) (1) Furbearing mammals, squirrels, and eastern cottontail rabbits for breeding purposes under IC 14-22-20.~~

~~(3) (2) Ring-necked pheasants and bobwhite quail for:~~

- ~~(A) breeding purposes;~~
- ~~(B) food; or~~
- ~~(C) release.~~

(f) A license holder under subsection (c) may possess cervidae and their products for:

- (1) breeding;**
 - (2) propagating;**
 - (3) purchasing;**
 - (4) marketing; and**
 - (5) selling;**
- under IC 14-22-20.5.**

~~(f)~~ **(g)** A person must apply for a license under this section within five (5) days after the:

- (1) acquisition of an animal within Indiana; or
- (2) importation of an animal into Indiana.

Each enclosure for these animals must be inspected by a conservation officer before a license may be issued.

~~(g)~~ **(h)** A license holder under this section may add a species to a game breeder license other than those identified in the application upon:

- (1) an inspection by a conservation officer; or
- (2) approval by the division of fish and wildlife.

A conservation officer must be notified within five (5) days of acquisition of the new species.

~~(h)~~ **(i)** A license holder under this section who imports:

- (1) any live animal under this license; or
- (2) the eggs of birds covered under this license;

must secure a certificate of veterinary inspection from an accredited veterinarian in the state of origin before the animal is shipped into Indiana. Documentation in the form of a copy of a valid game breeder license or valid dated receipt that establishes lawful acquisition or ownership must accompany any transportation of wild animals.

~~(i)~~ **(j)** A license holder under this section must present at least one (1) of the following for inspection upon the request of a conservation officer for each animal possessed:

- (1) A receipt.
- (2) An invoice.
- (3) Other satisfactory evidence of lawful acquisition, including documentation of natural birth.

~~(j)~~ **(k)** For ring-necked pheasants, bobwhite quail, furbearing mammals, eastern cottontail rabbits, fox squirrels, and gray squirrels, the following requirements apply:

- (1) A wild animal must be confined in a cage or other enclosure that:
 - (A) makes escape of the animal unlikely; and
 - (B) prevents the entrance of a free-roaming animal of the same species.
- (2) The cage or enclosure shall be large enough to:
 - (A) allow the wild animal to turn about freely; and
 - (B) make normal postural adjustments.
- (3) All chainlink or welded wire edges shall be:
 - (A) smoothly secured to prevent injury to the animals; and
 - (B) kept properly repaired.
- (4) Night quarters, holding pens, and nesting boxes may not be used as primary housing.
- (5) The following shall be provided as required for the comfort of the particular species of animal:
 - (A) Fresh water.
 - (B) Rainproof dens.
 - (C) Nest boxes.
 - (D) Windbreaks.
 - (E) Shelters.
 - (F) Shade.
 - (G) Bedding.
- (6) Each animal shall be handled, housed, and transported in a sanitary and humane manner.
- (7) An enclosure must be provided with sufficient drainage to prevent standing water from accumulating.
- (8) The cages or other enclosures must be made available upon request for inspection by a conservation officer.

~~(k)~~ **(l)** For white-tailed deer, cervidae, the following enclosure requirements apply:

- (1) The enclosure must have a perimeter fence with a height of at least eight (8) feet from the ground to the top of the fence at all parts of the structure to:

- (A) make the escape of an animal unlikely; and
- (B) prevent the entrance of a free-roaming animal of the same species.
- (2) Fence bottoms shall be installed at or near ~~the~~ ground level but not more than six (6) inches above ground level.
- (3) If topographic, natural, or other conditions exist that would enable an animal to pass through, over, or under the fence, the permit holder must supplement the fence as necessary to prevent egress.
- (4) Perimeter fencing materials shall be of a fencing strength, weave, and construction that prevents the escape of an animal into the wild and may include, but are not limited to, high tensile game fence that is at least fourteen and one-half (14 1/2) gauge, chainlink fence of at least nine (9) gauge, welded wire fence of at least twelve and one-half (12 1/2) gauge, wood fence or farm buildings.
- (5) All chainlink or welded wire fence edges shall be:
 - (A) smoothly secured to prevent injury to the animals; and
 - (B) kept properly repaired.
- (6) The license holder under this section or ~~the license holder's~~ **their** designees must maintain the perimeter fencing in good condition at all times.
- (7) The license holder under this section or ~~the license holder's~~ **their** designees must maintain a log of perimeter fence inspections that records the following:
 - (A) The inspection date.
 - (B) The inspection time.
 - (C) The **individual or** individuals performing the inspection.
 - (D) Any noted deficiencies or repairs made.
- (8) A license holder under this section must report the escape of any ~~white-tailed deer cervidae~~ possessed under this section to a conservation officer within twenty-four (24) hours after knowledge of the escape or knowledge of potential escape. Knowledge of potential escape shall include, but not be limited to, significant damage to the perimeter fence that is likely to allow escape or the license holder is unable to account for all of the animals possessed under this license, or both.
- (9) A license holder under this section shall secure and install padlocks on all remote perimeter gates.
- (10) Upon a request by a conservation officer, any enclosure must be made available for inspection.

~~(H)~~ **(m)** To provide for the comfort and overall health of each ~~white-tailed deer cervidae~~ possessed under this section, the license holder shall provide the following:

- (1) Fresh water must be provided as follows:
 - (A) Available at all times.
 - (B) May be provided by:
 - (i) public water utilities;
 - (ii) wells;
 - (iii) cisterns;
 - (iv) ponds; or
 - (v) streams.
- (2) Feed must be provided as follows:
 - (A) Where adequate pasture or natural vegetation is available to meet the nutritional needs of each animal, supplemental feeding is not necessary.
 - (B) Where adequate pasture or natural vegetation is not available to meet the nutritional needs of each animal, supplemental feed or a complete feed ration must be made available to prevent:
 - (i) malnutrition;
 - (ii) poor body condition;

- (iii) debility;
 - (iv) stress;
 - (v) illness; or
 - (vi) disease.
- (3) Windbreaks, shelters, and shade must be provided as follows:
- (A) Protection of each animal from the extreme elements of heat, cold, or wind must be provided at all times and in all enclosures where animals are housed.
 - (B) Protection from the elements may include, but shall not be limited to, one (1) or more of the following:
 - (i) Barns.
 - (ii) Shelters.
 - (iii) Man-made or natural windbreaks.
 - (iv) Tarps.
 - (v) Shade cloth.
 - (vi) Trees.
 - (vii) Hedge rows.
 - (viii) Tall grass and weeds.
- (4) Bedding must be provided as follows:
- (A) Each enclosure must provide high ground, shelters, or bedding areas that prevent the animal from lying or standing in mud or water that is ankle deep for more than ten (10) consecutive days.
 - (B) Each enclosure used to house ~~white-tailed deer~~ **cervidae** must be provided with sufficient drainage to prevent stagnant water or deep mud throughout the enclosure such that the animals in the enclosure can turn about freely and obtain food and water without standing in stagnant water or deep mud.
- (5) Enclosures must be provided as follows:
- (A) Each enclosure shall be large enough to allow the animal to:
 - (i) turn about freely; and
 - (ii) make normal postural adjustments.
 - (B) Periodic crowding of animals of less than four (4) months ~~of age~~ may be necessary for the following:
 - (i) Wintering of animals and pasture preservation.
 - (ii) Breeding.
 - (iii) Medicating or vaccinating, or both.
 - (iv) Tuberculosis and brucellosis testing to maintain herd status.
 - (v) Handling and tranquilization.
- (6) Each ~~white-tailed deer~~ **cervidae** shall be handled, housed, and transported in a sanitary and humane manner.

~~(m) An animal possessed under this section may be administered a pharmaceutical product in accordance with state and federal laws and approved by a state or federal agency for the purpose of prevention or treatment of any of the following:~~

- ~~(1) Malnutrition.~~
- ~~(2) Illness.~~
- ~~(3) Disease.~~
- ~~(4) Injury.~~
- ~~(5) Stress.~~

~~A licensed veterinarian may administer to an animal an immobilizing agent, tranquilizer, or drug for euthanasia in compliance with all state and federal laws. A license holder under this section or authorized handler may use an immobilizing agent or tranquilizer, as directed by a licensed veterinarian, to assist in the safe handling and transportation of white-tailed deer.~~

(n) Each ~~white-tailed-deer~~ **cervidae** possessed under this section must be individually and uniquely identified in accordance with 345 IAC 2-7 prior to leaving the license holder's premises.

(o) A license holder under this section that possesses ~~white-tailed-deer~~ **cervidae** must do the following:

- (1) Register with the state veterinarian each location where ~~white-tailed-deer~~ **cervidae** are being kept and acquire a premises identification under 345 IAC 2-7.
- (2) Register with the state veterinarian and enroll in the chronic wasting disease (CWD) program under 345 IAC 2-7.
- (3) Adhere to Indiana cervidae importation requirements as designated by the state veterinarian. Prior to importation, a permit from the state veterinarian must be acquired under 345 IAC 1-3 and 345 IAC 2-7.
- (4) Handle all deaths of cervidae older than twelve (12) months of age as follows in accordance with 345 IAC 2-7:
 - (A) Report each incident to the state veterinarian.
 - (B) Test each disease-susceptible cervid for CWD if suitable for testing.
 - (C) Follow CWD sample submission protocol that is designated by the state veterinarian.
- (5) Allow for an annual herd inspection by the Indiana state board of animal health and provide records under 345 IAC 2-7 for the following:
 - (A) Official cervid identifications.
 - (B) Additions and removals from herd that include dates, names, addresses or contact information.
 - (C) Postmortem reports.

~~(p) A license holder under this section shall not release wild animals possessed under this section except for bobwhite quail and ring-necked pheasants. A license holder under this section shall not release known diseased bobwhite quail and ring-necked pheasants.~~

~~(q) A license holder under this section must not sell a wild animal possessed under this section if the animal is known to be diseased.~~

~~(r) White-tailed-deer~~ **(p) Cervidae** and their products may be sold in Indiana in accordance with IC 14-22-20 or out of state for any legal purpose.

(q) An animal possessed under this section may be administered a pharmaceutical product in accordance with state and federal laws and approved by a state or federal agency for the purpose of prevention or treatment of any of the following:

- (1) Malnutrition.**
- (2) Illness.**
- (3) Disease.**
- (4) Injury.**
- (5) Stress.**

A licensed veterinarian may administer to an animal an immobilizing agent, tranquilizer, or drug for euthanasia in compliance with all state and federal laws. A license holder under this section or authorized handler may use an immobilizing agent or tranquilizer, as directed by a licensed veterinarian, to assist in the safe handling and transportation of cervidae.

(r) A license holder under this section shall not release animals possessed under this section except for bobwhite quail and ring-necked pheasants. A license holder under this section shall not release known diseased bobwhite quail and ring-necked pheasants.

(s) A license holder under this section must not sell an animal possessed under this section if the animal is known to be diseased.

~~(s)~~ **(t)** A license holder under this section must comply with all applicable state, local, or other federal laws that govern the possession and sale of the animals possessed under this section.

~~(t)~~ **(u)** A license holder under this section shall do the following:

- (1) Maintain an inventory of all wild animals possessed under this section.
- (2) Record all additions and deletions to the inventory for every wild animal that is:
 - (A) born or has died;
 - (B) sold;
 - (C) traded;
 - (D) loaned;
 - (E) bartered; or
 - (F) given to another person;
 on a signed departmental form or computerized record with a signature that is either electronic or in ink. If recorded on a departmental form, the person must complete the form in ink.
- (3) Keep a copy of the complete and accurate inventory on the premises of the game breeder.
- (4) Provide a copy of the inventory to a conservation officer upon request.
- (5) Issue a valid, dated receipt prepared in ink for all animals or their products that are sold, traded, bartered, or gifted and include the following information:
 - (A) Game breeder license number.
 - (B) Buyer and seller name and address.
 - (C) Number of animals or products sold.
 - (D) Species of animal sold.
 A copy of all of the receipts issued must be on the premises of the game breeder for at least five (5) years after the year of the transaction.

~~(u)~~ **(v)** A license expires on December 31 of the year the license is issued. The license holder must file an application with the division by ~~February 15~~ **January 31** of each year in order to renew the license. The annual report must accompany the renewal application and shall include for each species possessed under this license the number:

- (1) bought;
- (2) sold;
- (3) born;
- (4) traded;
- (5) gifted;
- (6) of deaths; and
- (7) on hand.

~~(v)~~ **(w)** A conservation officer may enter the premises of the license holder at all reasonable hours to conduct an inspection in accordance with subsections ~~(w)~~ and (x) **and (y).**

~~(w)~~ **(x)** During an inspection, the license holder or the license holder's designee shall comply with both of the following:

- (1) Meet the conservation officer at the time of inspection to provide access to all enclosures where animals possessed under a license issued under this section are housed.
- (2) Provide access to all records relative to the license issued under this section.

~~(x)~~ (y) While conducting an inspection, the conservation officer must comply with the following:

- (1) Upon request of the license holder or the license holder's designee and prior to entering the enclosure where animals are housed, follow appropriate sanitation practices to prevent the spread of disease if the license holder provides sanitation supplies or protective equipment.
- (2) Give due consideration to the safety and welfare of the animals.
- (3) Notify the license holder if the inspection reveals a violation of this section or IC 14-22-20. The conservation officer may make a second inspection **after** no sooner than fifteen (15) days after the reported ~~violation~~ **violations** unless critical conditions exist as determined at the reasonable discretion of the conservation officer. ~~The license may be suspended or revoked under IC 4-21.5 and~~ wild animals may be confiscated if the license holder fails to correct the ~~violation~~ **violations** of the license requirements.

~~(y)~~ (z) A license may be suspended, denied, or revoked under IC 4-21.5 if the license holder fails to comply with any of the following:

- (1) A provision of a license issued under this section.
- (2) IC 14-22-20.
- (3) All applicable state, local, or other federal laws.

(Natural Resources Commission; 312 IAC 9-10-4; filed May 12, 1997, 10:00 a.m.: 20 IR 2728; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Jan 26, 2004, 10:45 a.m.: 27 IR 1789; filed Jan 8, 2007, 9:11 a.m.: 20070207-IR-312060193FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA; filed Apr 8, 2010, 1:49 p.m.: 20100505-IR-312090486FRA)

SECTION 4. 312 IAC 9-10-21 IS REPEALED.